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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,590	10/26/2001	Alexander Tormasov	44151-00005USPT	8122
23879	7590	07/14/2004	EXAMINER	
BRIAN M BERLINER, ESQ OMELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			BATAILLE, PIERRE MICHE	
		ART UNIT	PAPER NUMBER	
		2186	10	
DATE MAILED: 07/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/005,590	TORMASOV ET AL. <i>[Signature]</i>
Examiner	Art Unit	
Pierre-Michel Bataille	2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 28 July 2003.

2a)  This action is **FINAL**.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4,6-9 and 14-18 is/are rejected.

7)  Claim(s) 5 and 10-13 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

**DETAILED ACTION**

1. This office action is taken in relation to prosecution of the instant application, which present claims 1-19 for examination.
2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors.

Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7-9, and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,961,582 (Gaines).

With respect to claim 14, Gaines teaches a system and method for utilizing a hosting service providing platform in an operating system comprising the steps of: requesting a service in said operating system [Col. 7, Lines 1-8; Col. 5, Lines 54-67]; operating a virtual environment [Col. 6, Lines 22-33]; and utilizing a specialized distributed file system (***distributed application executing on more than one file***

***system to achieve a distributed execution environment) [Col. 7, Lines 31-52; Col. 14, Lines 60-65].***

With respect to claim 15, Gaines teaches operating a virtual environment including: installing any application of said operating system (***virtual application interface including filter resource loading virtual drivers and controlling accesses to the resources) [Col. 5, Line 56 to Col. 6, Line 13; Col. 6, Lines 32-55].***

With respect to claim 16, Gaines teaches operating a virtual environment including: configuring any application of said operating system (***virtual application interface including filter resource creating, destroying and modifying processes) [Col. 6, Lines 47-58].***

With respect to claim 17, Gaines teaches operating a virtual environment including: launching any application of said operating system from said virtual environment (***virtual application interface including filter resource loading virtual drivers and controlling accesses to the resources) [Col. 5, Line 56 to Col. 6, Line 13; Col. 6, Lines 32-55].***

With respect to claim 18, Gaines teaches operating a virtual environment including: repairing remotely any failed software configuration of said virtual environment (***virtual application interface including filter resource creating, destroying and modifying processes at a remote location and accesses to a set of constraints) [Col. 6, Lines 47-58; Col. 13, Lines 3-31; Col. 13, lines 42-60].***

With respect to claim 19, Gaines teaches operating a virtual environment including: achieving a corresponding fault tolerance level (*virtual application interface including filter resource scrutinizes the process to determine fault*) [Col. 6, Lines 1-13; Col. 6, Lines 32-55].

With respect to claim 7, Gaines teaches a method for providing a hosting service providing platform comprising: automating a computer cluster, including establishing a control center (*host virtual operating system 141 having virtual application interface, an application program for controlling set of virtual resources*) [Col. 6, Lines 22-33]; and operating a plurality of hardware-independent cluster nodes, whereby said control center coordinates the functions of said plurality of hardware-independent cluster nodes (*virtual application interface to create and allocate processes controlling the set of virtual resources*) [Col. 6, Lines 22-55; Col. 7, Lines 15-28].

With respect to claim 8, Gaines teaches operating said plurality of hardware-independent cluster nodes including: implementing a specialized distributed file system, wherein said specialized distributed file system is integrated and optimized for each member of said plurality of hardware-independent cluster nodes (*distributed application executing on more than one file system to achieve a distributed execution environment*) [Col. 7, Lines 31-52; Col. 14, Lines 60-65].

With respect to claim 9, Gaines teaches operating said plurality of hardware-independent cluster nodes including: operating a plurality of virtual environments (*execution environment may comprises a virtual operating system associated*

***with each host system) [Col 13, Lines 10-18]; (distributed program may include a set programs or more that one copies of a program) Col. 14, Lines 60-65].***

With respect to claim 1, Gaines teaches a hosting service providing platform comprising; an automated computer cluster, said automated computer cluster including a control center (***host virtual operating system 141 having virtual application interface, an application program for controlling set of virtual resources***) [Col. 6, Lines 22-33]; and a plurality of hardware-independent cluster nodes, whereby said control center coordinates the functions of said plurality of hardware-independent cluster nodes (***virtual application interface to create and allocate processes controlling the set of virtual resources***) [Col. 6, Lines 22-55; Col. 7, Lines 15-28].

With respect to claim 2, Gaines teaches the hosting service providing platform wherein said plurality of hardware-independent cluster nodes further comprises a specialized distributed file system (***distributed application executing on more than one file system to achieve a distributed execution environment***) [Col. 7, Lines 31-52; Col. 14, Lines 60-65].

With respect to claim 3, Gaines teaches the hosting service providing platform wherein said specialized distributed file system is integrated and optimized for said automated computer cluster (***distributed application executing on more than one file system to achieve a distributed execution environment***) [Col. 7, Lines 31-52; Col. 14, Lines 60-65].

With respect to claim 4, Gaines teaches the hosting service providing platform wherein said specialized distributed file system further comprises data for a plurality of virtual environments (***execution environment may comprises a virtual operating system associated with each host system***) [Col 13, Lines 10-18]; (***distributed program may include a set programs or more than one copies of a program***) Col. 14, Lines 60-65].

#### ***Allowable Subject Matter***

5. Claims 5-6 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

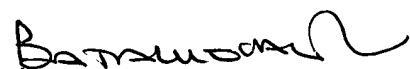
US 2003/0037134 (Hickman) teaching method and apparatus for computing over a wide area network.

US 6,173,374 (Heil et al) teaching system and method for peer-to-peer accelerated I/O shipping between host adapters in a clustered computer network.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Michel Bataille whose telephone number is (703) 305-0134. The examiner can normally be reached on Tue-Fri (7:30A to 6:00P).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew M. Kim can be reached on (703) 305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pierre-Michel Bataille  
Primary Examiner  
Art Unit 2186

July 6, 2004